# IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	}
Plaintiff,	8:08CR2
v.	ORDER SETTING CASE FOR TRIAL
TANA HOLLE and JOSHUA HOLLE,	) )
Defendants.	

#### IT IS ORDERED:

Following a telephone conference with counsel on May 19, 2008, wherein there was a joint motion to continue the trial of this matter, the court grants the motion and reschedules trial for August 5, 2008. The ends of justice have been served by granting such oral motion and outweigh the interests of the public and the defendants in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **May 19, 2008 and August 5, 2008**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that counsel require additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

#### IT IS FURTHER ORDERED:

### 1. Notice

- The above-captioned criminal case is set for trial before the undersigned magistrate judge and a jury, in Courtroom No. 7, Second Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, commencing at 8:30 a.m. on August 5, 2008.
- The Court will give no further notice other than telephone notice of the date and hour the trial will begin.

## 2. Requests for Continuance

 Continuances must be requested within two weeks of this order in written motions accompanied by supporting affidavits.

## 3. Pretrial Motions

- Counsel must immediately notify the Court of any pretrial motion requiring an evidentiary hearing outside the presence of the jury.
- Motions must be written and accompanied by supporting affidavits that conform to the rules
  of this court.

## 4. Change of Plea

Counsel must inform Magistrate Judge Thalken that a defendant has elected to change his
or her plea within five days before trial or as soon as practicable.

## 5. Delivery of Required Submissions

- The government shall file and serve on opposing counsel <u>at least</u> five working days before the first day scheduled for trial, as appropriate, all proposed jury instructions, trial briefs, suggested verdict forms, proposed findings of fact and conclusions of law, and witness lists. The procedure for the submission of exhibits is set forth below.
- The defendant is encouraged also to submit to the undersigned magistrate judge's chambers at least five working days before trial proposed jury instructions, a trial brief, discovery material to be used at trial, and an exhibit notebook. Any materials so submitted shall not be disclosed to the government unless the defendant specifies otherwise.
- A party's witness list must include the full name and address of each witness whom the
  party may call to testify at trial except that any witness list that is filed shall exclude the
  home address of the witness.
- Parties are encouraged to submit proposed jury instructions on disk.

#### 6. Exhibits

- All exhibits must be pre-marked with stickers that indicate whether the government or the defendant is offering the exhibit.
- The government's exhibits shall begin with the number "1" and shall be numbered consecutively. If the government's last exhibit is a two-digit number (e.g., "34"), the defendant's first exhibit number shall be "100." If the government's last exhibit number is a three-digit number, the defendant's first exhibit number shall be a three-digit number rounded up to the next hundred. Thus, if the government's last exhibit number is "134," the defendant's first exhibit number would be "200."
- Exhibits must be listed before trial on exhibit forms available from the Clerk's office or on our web page at <a href="https://www.ned.uscourts.gov">www.ned.uscourts.gov</a> (Forms).
- The courtroom deputy will take custody of the exhibits after they are received by the court.
- Parties must deliver to the undersigned magistrate judge's chambers at least five working
  days before the first day scheduled for trial copies of all exhibits in a three-ring binder
  organized for use by dividers or tabs.

## 7. Discovery Material Used as Evidence at Trial

- If a party will use a deposition at trial, the proponent must supply the Court with a copy of the deposition. If less than the whole deposition will be used, the copy must highlight the portions to be introduced. The proponent must also supply the Court with a list or index identifying by page and line the portions to be introduced. If a party objects to the introduction of deposition testimony, that party must supply the Court with a list specifying the precise nature of each objection and identifying its location by page and line.
- If a party intends to use testimony in a videotaped deposition and the opponent objects to any portion of it, the proponent must supply the Court with a transcript of the testimony from the deposition. The transcript must highlight the portions of the testimony to be introduced. The proponent must also supply the Court with a list or index identifying by page and line in the transcript the portions to be introduced. If a party objects to the introduction of videotaped deposition testimony, that party must supply the Court with a list specifying the precise nature of each objection and identifying its location in the transcript by page and line.

## 8. Conduct of Trial

- The undersigned magistrate judge will meet with counsel at 8:30 a.m. in chambers on the first day of trial.
- Each day of trial will begin at 9:00 a.m. unless directed otherwise.
- Questioning of witnesses will be limited to direct examination, cross examination, and redirect examination unless the undersigned magistrate judge allows further examination.

## 9. Voir Dire

- The undersigned magistrate judge will conduct an initial general voir dire of the prospective panel.
- Counsel will be allowed to conduct follow-up voir dire in areas not covered by the Court's examination or in an area which may justify further examination in view of a prospective juror's response during the Court's voir dire.

# 10. Witnesses

• Witnesses who do not appear to testify when scheduled will be considered withdrawn. The trial will then proceed with the presentation of any remaining evidence.

## 11. Equipment Available

- The ELMO evidence presenter is available in Courtroom No. 7. Please notify the
  courtroom deputy prior to trial if you plan to use the ELMO and also if you need to
  schedule a time for training. Please give as much notice as possible. More
  information is available on the web at www.ned.uscourts.gov (Court Technology).
- 2 Large screen TVs
- VCR
- Illustrator Pad/Printer
- Overhead projector
- Easel
- Headsets for the hearing-impaired
- 12. Interpreters. Counsel shall notify the courtroom deputy at least a week in advance if the services of an interpreter will be required for a hearing or for trial.

This order supersedes any local rule of court or any order on final pretrial conference entered in these actions.

Dated this 20th day of May, 2008.

BY THE COURT:

s/Thomas D. Thalken United States Magistrate Judge